

FIRST REGULAR SESSION

# HOUSE BILL NO. 1060

## 95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOBBS.

2189L.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal sections 238.202, 238.208, 238.220, 238.225, and 238.236, RSMo, and to enact in lieu thereof five new sections relating to transportation development districts.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 238.202, 238.208, 238.220, 238.225, and 238.236, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 238.202, 238.208, 238.220, 238.225, and 238.236, to read as follows:

238.202. 1. As used in sections 238.200 to 238.275, the following terms mean:

(1) "Board", the board of directors of a district;

(2) "Commission", the Missouri highways and transportation commission;

(3) "District", a transportation development district organized under sections 238.200 to 238.275;

(4) "Local transportation authority", a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service;

(5) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, [or other] **public mass [transit] transportation system**, and any similar or related **operation**, improvement, or infrastructure;

(6) "**Public mass transportation system**", any transportation systems owned and operated by an interstate transportation authority, a municipality, a city transit authority,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **or a city utilities board, employing motor buses, rails, or any other means of conveyance,**  
18 **by any type of power, operated for public use in the conveyance of persons, primarily**  
19 **providing local transportation service within an interstate transportation district or**  
20 **municipality.**

21 2. For the purposes of sections 11(c), 16 and 22 of article X of the Constitution of  
22 Missouri, section 137.073, RSMo, and as used in sections 238.200 to 238.275, the following  
23 terms shall have the meanings given:

24 (1) "Approval of the required majority" or "direct voter approval", a simple majority;

25 (2) "Qualified electors", "qualified voters" or "voters":

26 (a) Within a proposed or established district, except for a district proposed under  
27 subsection 1 of section 238.207, any persons residing therein who have registered to vote  
28 pursuant to chapter 115, RSMo; or

29 (b) Within a district proposed or established under subsection 1 of section 238.207 which  
30 has no persons residing therein who have registered to vote pursuant to chapter 115, RSMo, the  
31 owners of record of all real property located in the district, who shall receive one vote per acre,  
32 provided that if a registered voter subsequent to the creation of the district becomes a resident  
33 within the district and obtains ownership of property within the district, such registered voter  
34 must elect whether to vote as an owner of real property or as a registered voter, which election  
35 once made cannot thereafter be changed;

36 (3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115,  
37 RSMo.

238.208. 1. The owners of property adjacent to a transportation district formed under  
2 the Missouri transportation development district act may petition the court by unanimous petition  
3 to add their property to the district. If the property owners within the transportation development  
4 district unanimously approve of the addition of property, the adjacent properties in the petition  
5 shall be added to the district. Any property added under this section shall be subject to all  
6 projects, taxes, and special assessments in effect as of the date of the court order adding the  
7 property to the district. The owners of the added property shall be allowed to vote at the next  
8 election scheduled for the district to fill vacancies on the board and on any other question  
9 submitted to them by the board under this chapter. The owners of property added under this  
10 section shall have one vote per acre in the same manner as provided in subdivision (2) of  
11 subsection 2 of section 238.220. **Notwithstanding any other provision of this section to the**  
12 **contrary, for any transportation development district formed by local transportation**  
13 **authorities for a project including the operation of a public mass transportation system,**  
14 **the unanimous approval of the property owners within the district shall not be required,**

15 **but the adjacent properties in the petition shall be added upon the approval and consent**  
16 **of the transportation development district board of directors.**

17         2. The owners of all of the property located in a transportation development district  
18 formed under this chapter may, by unanimous petition filed with the board of directors of the  
19 district, remove any property from the district, so long as such removal will not materially affect  
20 any obligations of the district.

238.220. 1. Notwithstanding anything to the contrary contained in section 238.216, if  
2 any persons eligible to be registered voters reside within the district the following procedures  
3 shall be followed:

4         (1) After the district has been declared organized, the court shall upon petition of any  
5 interested person order the county clerk to cause an election to be held in all areas of the district  
6 within one hundred twenty days after the order establishing the district, to elect the district board  
7 of directors which shall be not less than five nor more than fifteen;

8         (2) Candidates shall pay the sum of five dollars as a filing fee to the county clerk and  
9 shall file with the election authority of such county a statement under oath that he or she  
10 possesses all of the qualifications set out in this section for a director. Thereafter, such candidate  
11 shall have his or her name placed on the ballot as a candidate for director;

12         (3) The director or directors to be elected shall be elected at large. The candidate  
13 receiving the most votes from qualified voters shall be elected to the position having the longest  
14 term, the second highest total votes elected to the position having the next longest term, and so  
15 forth. Each initial director shall serve the one-, two- or three-year term to which he or she was  
16 elected, and until a successor is duly elected and qualified. Each successor director shall serve  
17 a three-year term. The directors shall nominate and elect an interim director to complete any  
18 unexpired term of a director caused by resignation or disqualification; and

19         (4) Each director shall be a resident of the district. Directors shall be registered voters  
20 at least twenty-one years of age.

21         2. Notwithstanding anything to the contrary contained in section 238.216, if no persons  
22 eligible to be registered voters reside within the district, the following procedures shall apply:

23         (1) Within thirty days after the district has been declared organized, the circuit clerk of  
24 the county in which the petition was filed shall, upon giving notice by causing publication to be  
25 made once a week for two consecutive weeks in a newspaper of general circulation in the county,  
26 the last publication of which shall be at least ten days before the day of the meeting required by  
27 this section, call a meeting of the owners of real property within the district at a day and hour  
28 specified in a public place in the county in which the petition was filed for the purpose of  
29 electing a board of not less than five and not more than fifteen directors, to be composed of  
30 owners or representatives of owners of real property in the district; provided that, if all the

31 owners of property in the district joined in the petition for formation of the district, such meeting  
32 may be called by order of the court without further publication. For the purposes of determining  
33 board membership, the owner or owners of real property within the district and their legally  
34 authorized representative or representatives shall be deemed to be residents of the district; for  
35 business organizations and other entities owning real property within the district, the individual  
36 or individuals legally authorized to represent the business organizations or entities in regard to  
37 the district shall be deemed to be a resident of the district;

38 (2) The property owners, when assembled, shall organize by the election of a chairman  
39 and secretary of the meeting who shall conduct the election. At the election, each acre of real  
40 property within the district shall represent one share, and each owner may have one vote in  
41 person or by proxy for every acre of real property owned by such person within the district;

42 (3) The one-third of the initial board members receiving the most votes shall be elected  
43 to positions having a term of three years. The one-third of initial board members receiving the  
44 next highest number of votes shall be elected to positions having a term of two years. The lowest  
45 one-third of initial board members receiving sufficient votes shall be elected to positions having  
46 a term of one year. Each initial director shall serve the term to which he or she was elected, and  
47 until a successor is duly elected and qualified. Successor directors shall be elected in the same  
48 manner as the initial directors at a meeting of the real property owners called by the board. Each  
49 successor director shall serve a three-year term. The directors shall nominate and elect an  
50 interim director to complete any unexpired term of a director caused by resignation or  
51 disqualification;

52 (4) Directors shall be at least twenty-one years of age.

53 3. Notwithstanding any provision of section 238.216 and this section to the contrary, if  
54 the petition for formation of the district was filed pursuant to subsection 5 of section 238.207,  
55 the following procedures shall be followed:

56 (1) **If the district is composed of any of one or more local transportation authorities**  
57 **with a project including the operation of a public mass transportation system, the board**  
58 **of directors shall consist of not less than three nor more than five persons appointed by the**  
59 **chief executive officers of each local transportation authority proposing the creation of the**  
60 **district. For all other districts, if the district is comprised of four or more local transportation**  
61 **authorities, the board of directors shall consist of the presiding officer of each local**  
62 **transportation authority within the district. If the district is comprised of two or three local**  
63 **transportation authorities, the board of directors shall consist of the presiding officer of each**  
64 **local transportation authority within the district and one person designated by the governing body**  
65 **of each local transportation authority within the district;**

66 (2) Each director shall be at least twenty-one years of age and a resident or property  
67 owner of the local transportation authority the director represents. A director designated by the  
68 governing body of a local transportation authority may be removed by such governing body at  
69 any time with or without cause, **and a director appointed by the chief executive officer may**  
70 **be removed by the chief executive officer at any time with or without cause;** and

71 (3) Upon the assumption of office of a new presiding officer of a local transportation  
72 authority, such individual shall automatically succeed his predecessor as a member of the board  
73 of directors. Upon the removal, resignation or disqualification of a director designated by the  
74 governing body of a local transportation authority, such governing body shall designate a  
75 successor director.

76 4. **Except for those districts formed by local transportation authorities for projects**  
77 **including the operation of a public mass transportation system,** the commission shall appoint  
78 one or more advisors to the board, who shall have no vote but shall have the authority to  
79 participate in all board meetings and discussions, whether open or closed, and shall have access  
80 to all records of the district and its board of directors.

81 5. If the proposed project is not intended to be merged into the state highways and  
82 transportation system under the commission's jurisdiction, the local transportation authority that  
83 will assume maintenance of the project shall appoint one or more advisors to the board of  
84 directors who shall have the same rights as advisors appointed by the commission.

85 6. Any county or counties located wholly or partially within the district which is not a  
86 local transportation authority pursuant to subdivision (4) of subsection 1 of section 238.202 may  
87 appoint one or more advisors to the board who shall have the same rights as advisors appointed  
88 by the commission.

238.225. 1. Before construction or funding of any project the district shall submit the  
2 proposed project to the commission for its prior approval. If the commission by minute finds  
3 that the project will improve or is a necessary or desirable extension of the state highways and  
4 transportation system, the commission may preliminarily approve the project subject to the  
5 district providing plans and specifications for the proposed project and making any revisions in  
6 the plans and specifications required by the commission and the district and commission entering  
7 into a mutually satisfactory agreement regarding development and future maintenance of the  
8 project. After such preliminary approval, the district may impose and collect such taxes and  
9 assessments as may be included in the commission's preliminary approval. After the commission  
10 approves the final construction plans and specifications, the district shall obtain prior  
11 commission approval of any modification of such plans or specifications.

12 2. If the proposed project is not intended to be merged into the state highways and  
13 transportation system under the commission's jurisdiction, the district shall also submit the

14 proposed project and proposed plans and specifications to the local transportation authority that  
15 will become the owner of the project for its prior approval.

16 3. In those instances where a local transportation authority is required to approve a  
17 project and the commission determines that it has no direct interest in that project, the  
18 commission may decline to consider the project. Approval of the project shall then vest  
19 exclusively with the local transportation authority subject to the district making any revisions in  
20 the plans and specifications required by the local transportation authority and the district and the  
21 local transportation authority entering into a mutually satisfactory agreement regarding  
22 development and future maintenance of the project. After the local transportation authority  
23 approves the final construction plans and specifications, the district shall obtain prior approval  
24 of the local transportation authority before modifying such plans or specifications.

25 **4. Notwithstanding any other provision of this section to the contrary, this section**  
26 **shall not apply to any transportation development district formed by local transportation**  
27 **authorities for a project including the operation of a public mass transportation system.**

238.236. 1. This section shall not apply to any tax levied pursuant to section 238.235,  
2 and no tax shall be imposed pursuant to the provisions of this section if a tax has been imposed  
3 by a transportation development district pursuant to section 238.235.

4 2. In lieu of the taxes allowed pursuant to section 238.235, any transportation  
5 development district which consists of all of one or more entire counties, all of one or more  
6 entire cities, or all of one or more entire counties and one or more entire cities which are totally  
7 outside the boundaries of those counties may by resolution impose a transportation development  
8 district sales tax on all retail sales made in such transportation development district which are  
9 subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for any  
10 transportation development purpose designated by the transportation development district in its  
11 ballot of submission to its qualified voters. No resolution enacted pursuant to the authority  
12 granted by this section shall be effective unless:

13 (1) The board of directors of the transportation development district submits to the  
14 qualified voters of the transportation development district, at a state general, primary, or special  
15 election, a proposal to authorize the board of directors of the transportation development district  
16 to impose or increase the levy of an existing tax pursuant to the provisions of this section; or

17 (2) The voters approved the question certified by the petition filed pursuant to subsection  
18 5 of section 238.207.

19 3. If the transportation development district submits to the qualified voters of the  
20 transportation development district a proposal to authorize the board of directors of the  
21 transportation development district to impose or increase the levy of an existing tax pursuant to

22 the provisions of subdivision (1) of subsection 2 of this section, the ballot of submission shall  
23 contain, but need not be limited to, the following language:

24        Shall the transportation development district of .....(transportation development  
25 district's name) impose a transportation development district-wide sales tax at the rate of .....  
26 (insert amount) for a period of ..... (insert number) years from the date on which such tax is  
27 first imposed for the purpose of ..... (insert transportation development  
28 purpose)?

29                                    ☐ YES

☐ NO

30

31 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed  
32 to the question, place an "X" in the box opposite "NO". If a majority of the votes cast on the  
33 proposal by the qualified voters voting thereon are in favor of the proposal, then the resolution  
34 and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified  
35 voters voting are opposed to the proposal, then the board of directors of the transportation  
36 development district shall have no power to impose the sales tax authorized by this section  
37 unless and until the board of directors of the transportation development district shall again have  
38 submitted another proposal to authorize it to impose the sales tax pursuant to the provisions of  
39 this section and such proposal is approved by a majority of the qualified voters voting thereon.

40        4. Within ten days after the adoption of any resolution in favor of the adoption of a  
41 transportation development district sales tax which has been approved by the qualified voters of  
42 such transportation development district, the transportation development district shall forward  
43 to the director of revenue, by United States registered mail or certified mail, a certified copy of  
44 the resolution of its board of directors. The resolution shall reflect the effective date thereof.  
45 The sales tax authorized by this section shall become effective on the first day of the second  
46 calendar quarter after the director of revenue receives notice of adoption of such tax.

47        5. All revenue received by a transportation development district from the tax authorized  
48 by this section which has been designated for a certain transportation development purpose shall  
49 be deposited in a special trust fund and shall be used solely for such designated purpose. Upon  
50 the expiration of the period of years approved by the qualified voters pursuant to subsection 3  
51 of this section or if the tax authorized by this section is repealed pursuant to subsection 12 of this  
52 section, all funds remaining in the special trust fund shall continue to be used solely for such  
53 designated transportation development purpose. Any funds in such special trust fund which are  
54 not needed for current expenditures may be invested by the board of directors in accordance with  
55 applicable laws relating to the investment of other transportation development district funds.

56        6. The sales tax may be imposed at a rate of one-eighth of one percent, one-fourth of one  
57 percent, three-eighths of one percent, one-half of one percent or one percent on the receipts from

58 the sale at retail of all tangible personal property or taxable services at retail within the  
59 transportation development district adopting such tax, if such property and services are subject  
60 to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525,  
61 RSMo. Any transportation development district sales tax imposed pursuant to this section shall  
62 be imposed at a rate that shall be uniform throughout the district.

63 7. The resolution imposing the sales tax pursuant to this section shall impose upon all  
64 sellers a tax for the privilege of engaging in the business of selling tangible personal property or  
65 rendering taxable services at retail to the extent and in the manner provided in sections 144.010  
66 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant  
67 thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax.  
68 The amount reported and returned to the director of revenue by the seller shall be computed on  
69 the basis of the combined rate of the tax imposed by sections 144.010 to 144.525, RSMo, and  
70 the tax imposed by the resolution as authorized by this section, plus any amounts imposed  
71 pursuant to other provisions of law.

72 8. On and after the effective date of any tax imposed pursuant to this section, the director  
73 of revenue shall perform all functions incident to the administration, collection, enforcement, and  
74 operation of the tax, and the director of revenue shall collect, in addition to all other sales taxes  
75 imposed by law, the additional tax authorized pursuant to this section. The tax imposed pursuant  
76 to this section and the taxes imposed pursuant to all other laws of the state of Missouri shall be  
77 collected together and reported upon such forms and pursuant to such administrative rules and  
78 regulations as may be prescribed by the director of revenue.

79 9. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing  
80 the state sales tax, sections 32.085 and 32.087, RSMo, governing local sales taxes, and section  
81 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax  
82 imposed by this section, except as modified in this section.

83 10. All sales taxes collected by the director of revenue pursuant to this section on behalf  
84 of any transportation development district, less one percent for the cost of collection, which shall  
85 be deposited in the state's general revenue fund after payment of premiums for surety bonds as  
86 provided in section 32.087, RSMo, shall be deposited in the state treasury to the credit of the  
87 "Transportation Development District Sales Tax Fund", which is hereby created. Moneys in the  
88 transportation development district sales tax fund shall not be deemed to be state funds and shall  
89 not be commingled with any funds of the state. All interest earned upon the balance in the  
90 transportation development district sales tax fund shall be deposited to the credit of the same  
91 fund. Any balance in the fund at the end of an appropriation period shall not be transferred to  
92 the general revenue fund and the provisions of section 33.080, RSMo, shall not apply to the fund.  
93 The director of revenue shall keep accurate records of the amount of money which was collected



94 in each transportation development district imposing a sales tax pursuant to this section, and the  
95 records shall be open to the inspection of officers of each transportation development district and  
96 the general public. Not later than the tenth day of each month, the director of revenue shall  
97 distribute all moneys deposited in such fund during the preceding month to the proper  
98 transportation development district.

99 11. The director of revenue may authorize the state treasurer to make refunds from the  
100 amounts credited to any transportation development district for erroneous payments and  
101 overpayments made, and may redeem dishonored checks and drafts deposited to the credit of  
102 such districts. If any transportation development district repeals the tax authorized by this  
103 section, the transportation development district shall notify the director of revenue of the action  
104 at least ninety days prior to the effective date of the repeal and the director of revenue may order  
105 retention, for a period of one year, of two percent of the amount collected after receipt of such  
106 notice to cover possible refunds or overpayment of such tax and to redeem dishonored checks  
107 and drafts deposited to the credit of such accounts. After one year has elapsed after the effective  
108 date of repeal of the tax authorized by this section in such transportation development district,  
109 the director of revenue shall remit the balance in the account to the transportation development  
110 district and close the account of that transportation development district. The director of revenue  
111 shall notify each transportation development district of each instance of any amount refunded  
112 or any check redeemed from receipts due the transportation development district.

113 12. (1) No transportation development district imposing a sales tax pursuant to this  
114 section may repeal or amend such sales tax unless such repeal or amendment will not impair the  
115 district's ability to repay any liabilities which it has incurred, money which it has borrowed or  
116 revenue bonds, notes or other obligations which it has issued or which have been issued by the  
117 commission or any local transportation authority to finance any project or projects.

118 (2) Whenever the board of directors of any transportation development district in which  
119 a transportation development sales tax has been imposed in the manner provided by this section  
120 receives a petition, signed by ten percent of the qualified voters of such transportation  
121 development district calling for an election to repeal such transportation development sales tax,  
122 the board of directors shall, if such repeal will not impair the district's ability to repay any  
123 liabilities which it has incurred, money which it has borrowed or revenue bonds, notes or other  
124 obligations which it has issued or which have been issued by the commission or any local  
125 transportation authority to finance any project or projects, submit to the voters of such  
126 transportation development district a proposal to repeal the transportation development sales tax  
127 imposed pursuant to the provisions of this section. If a majority of the votes cast on the proposal  
128 by the qualified voters voting thereon are in favor of the proposal to repeal the transportation  
129 development sales tax, then the resolution imposing the transportation development sales tax,

130 along with any amendments thereto, is repealed. If a majority of the votes cast by the qualified  
131 voters voting thereon are opposed to the proposal to repeal the transportation development sales  
132 tax, then the resolution imposing the transportation development sales tax, along with any  
133 amendments thereto, shall remain in effect.

134 **13. Notwithstanding any other provision of this section or sections 99.800 to 99.865,**  
135 **RSMo, to the contrary, the sales tax for a transportation district formed by local**  
136 **transportation authorities for projects including the operation of a public mass**  
137 **transportation system shall not be considered economic activity taxes as such term is**  
138 **defined in sections 99.805 and 99.918, RSMo, nor shall tax revenues derived from such tax**  
139 **be subject to allocation under the provisions of subsection 3 of section 99.845, RSMo, or**  
140 **subsection 4 of section 99.957, RSMo. Such sales tax shall be collected by the director of**  
141 **revenue, less one percent for the cost of collection which shall be deposited in the state's**  
142 **general revenue fund after payment of premiums for surety bonds as provided in section**  
143 **32.087, RSMo, and shall be deposited with the state treasurer in a special trust fund, which**  
144 **is hereby created, to be known as the "Transportation Development District Sales Tax**  
145 **Trust Fund". The moneys in this fund shall not be deemed to be state funds and shall not**  
146 **be commingled with any funds of the state. The director of revenue shall keep accurate**  
147 **records of the amount of money in the trust fund which was collected in each district**  
148 **wherein a sales tax is imposed under this section. The records shall be open to the**  
149 **inspection of the officers of the city and the public.**

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